

District Courts Amendment Bill

Government Bill

As reported from the committee of the whole House

This bill was formerly part of the Court Fees (Waiver) Bill as reported from the Justice and Electoral Committee. The committee of the whole House has further amended the bill and has divided it into the following bills:

- This bill, comprising Part 1
 - The Judicature Amendment Bill, comprising Part 2.
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Key to symbols used in reprinted bill

As reported from a select committee

Struck out (majority)

Subject to this Act,

Text struck out by a majority

New (majority)

Subject to this Act,

Text inserted by a majority

~~Subject to this Act,~~

Words struck out by a majority

Subject to this Act,

Words inserted by a majority

As reported from the committee of the whole House

New

Subject to this Act,

Text inserted

~~Subject to this Act,~~

Words struck out

Subject to this Act,

Words inserted

Hon Matt Robson

District Courts Amendment Bill

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the District Courts Amendment Act **2001**.
- (2) In this Act, the District Courts Act 1947 is called “the principal Act”.

2 Commencement

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This Act comes into force on the day after the date on which it receives the Royal assent.

4 Payment and recovery of fees

Section 113 of the principal Act is amended by repealing subsection (2), and substituting the following subsections: 10

- “(2) No *⟨Judge or officer of the Court⟩* *⟨Registrar or Deputy Registrar⟩* may do any act for which a fee is payable unless the amount of the fee prescribed or determined under any enactment is paid or unless payment of that amount is waived or postponed. 15
- “(2A) An act for which a fee is payable is not invalid simply because the fee has not been paid.”

5 Regulations

- (1) Section 123 of the principal Act is amended by inserting, after paragraph (b), the following paragraphs: 20

Struck out (majority)

“(ba) empowering Registrars, Deputy Registrars, or any other persons, subject to any conditions, restrictions, or requirements that may be stated in the regulations, to waive, reduce, or postpone the payment of fees or to refund, in whole or in part, any fee that has already been paid: 5

New (majority)

“(ba) in order to promote access to justice, empowering Registrars or Deputy Registrars to waive, reduce, or postpone the payment of a fee required in connection with a proceeding or an intended proceeding (including a proceeding in a Disputes Tribunal), or to refund, in whole or in part, such a fee that has already been paid, if satisfied on the basis of criteria specified under **paragraph (baa)** that— 10

“(i) the person otherwise responsible for payment of the fee is unable to pay or absorb the fee in whole or in part; or 15

“(ii) unless 1 or more of those powers are exercised in respect of a proceeding that concerns a matter of genuine public interest, the proceeding is unlikely to be commenced or continued: 20

“(baa) prescribing, for the purposes of the exercise of a power under **paragraph (ba)**, the criteria—

“(i) for assessing a person’s ability to pay a fee; and 25

“(ii) for identifying proceedings that concern matters of genuine public interest:

“(bab) empowering Registrars or Deputy Registrars to postpone the payment of a fee pending the determination of—

“(i) an application for the exercise of a power specified in **paragraph (ba)**; or 30

“(ii) an application for review under **section 123A**:

“(bb) making provision in relation to the postponement, under the regulations, of the payment of any fee, which provision may (without limitation) include provision— 35

- “(i) for the recovery of the fee after the expiry of the period of postponement; and
- “(ii) for restrictions to apply (after the expiry of the period of postponement and so long as the fee remains unpaid) on the steps that may be taken in the proceedings in respect of which the fee is payable:

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New

“(bc) providing for the manner in which an application for the exercise of a power specified in **paragraph (ba)** or **paragraph (bab)** is to be made, including, without limitation, requiring such an application to be in a form approved for the purpose by the chief executive of the Department for Courts.”.

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New (majority)

- (2) Section 123 of the principal Act is amended by adding, as **subsection (2)**, the following subsection:
- “(2) No fee is payable for an application ~~((of))~~ for the exercise of a power specified in **subsection (1)(ba)** or **(bab)**.”

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5A New section 123A inserted

The principal Act is amended by inserting, after section 123, the following section:

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“123A Reviews of decisions of Registrars concerning fees

- “(1) Any person who is aggrieved by a decision of a Registrar or Deputy Registrar under regulations made under **section 123(1)(ba)** may apply to a Judge for a review of that decision.
- “(2) An application under **subsection (1)** may be made within 20 working days after the date on which the applicant is notified of the decision of the Registrar or Deputy Registrar, or within any further time that the Judge allows on application made for that purpose either before or after the expiration of those 20 working days.

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New (majority)

- “(3) Applications under this section may be made on an informal basis.
- “(4) Reviews under this section are—
- “(a) conducted by way of rehearing of the matter in respect of which the Registrar or Deputy Registrar made the decision; and 5
- “(b) dealt with on the papers, unless the Judge directs otherwise.
- “(5) On dealing with an application for a review of a decision of a Registrar or Deputy Registrar, the Judge may confirm, modify, or reverse the decision of the Registrar or the Deputy Registrar. 10
- “(6) No fee is payable for an application under this section.
Compare: 1991 No 71 s 16”.

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Legislative history

2 October 2001

Divided from Court Fees (Waiver) Bill (Bill 146–2)
as Bill 146–3A